

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PAUL ROBERTS,

Plaintiff,

v.

GAVIN NEWSOM, et al.,

Defendants.

Case No. 1:21-cv-00506-ADA-CDB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DISMISS
CERTAIN CLAIMS AND DEFENDANTS IN
PLAINTIFF'S FIRST AMENDED
COMPLAINT

(ECF No. 24)

Plaintiff Paul Roberts ("Plaintiff") is a state prisoner proceeding *pro se* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On April 19, 2023, the assigned Magistrate Judge issued findings and recommendations following screening of the first amended complaint, recommending that this action proceed on the following claims: (1) Eighth Amendment deliberate indifference to serious medical needs claims against the Defendants CIM Warden, Delgadillo and Gilman (claim one); (2) Eighth Amendment failure to protect claims against Defendants CIM Warden, Delgadillo, Farooq, Gilman, Lemus and Torres (claim two); (3) Eighth Amendment failure to protect claims against Defendants Gonzales and Pilkerton (claim three); (4) an equal protection violation against Defendant Pilkerton (claim three); (5) a due process violation against Defendant Pilkerton (claim three); (6) Eighth Amendment excessive force claims against Defendants John Doe #1 and John Doe #2 (claim four); and (7) an

1 Eighth Amendment failure to intervene claim against Defendant Pilkerton (claim four). (ECF No.
2 24 at 27-28.) It was further recommended the remaining claims be dismissed. (*Id.*) The Magistrate
3 Judge provided Plaintiff fourteen days within which to file any objections. (*Id.*) No objections
4 have been filed.

5 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a
6 *de novo* review of this case. Having carefully reviewed the file, the Court finds the findings and
7 recommendations to be supported by the record and proper analysis.

8 Accordingly,

- 9 1. The findings and recommendations issued on April 19, 2023, (ECF No. 24), are
10 ADOPTED in full;
- 11 2. This action shall PROCEED on the following claims brought pursuant to 42 U.S.C. §
12 1983:
 - 13 a. Eighth Amendment deliberate indifference to serious medical needs claims
14 against Defendants CIM Warden, Delgadillo, and Gilman (claim one);
 - 15 b. Eighth Amendment failure to protect claims against Defendants CIM Warden,
16 Delgadillo, Farooq, Gilman, Lemus, and Torres (claim two);
 - 17 c. Eighth Amendment failure to protect claims against Defendants Gonzales and
18 Pilkerton (claim three);
 - 19 d. An equal protection violation against Defendant Pilkerton (claim three);
 - 20 e. A due process violation against Defendant Pilkerton (claim three);
 - 21 f. Eighth Amendment excessive force claims against Defendants John Doe #1 and
22 John Doe #2 (claim four); and
 - 23 g. An Eighth Amendment failure to intervene claim against Defendant Pilkerton
24 (claim four);
- 25 3. Defendants Newsom, CDCR Secretary and Warden, Corcoran State Prison, are
26 DISMISSED;
- 27 4. The remaining claims in Plaintiff's first amended complaint are DISMISSED; and

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1 5. The matter is referred back to the Magistrate Judge for further proceedings.

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4 IT IS SO ORDERED.

5 Dated: June 30, 2023


UNITED STATES DISTRICT JUDGE